

54016

OLC 75-0404
4 March 1975

MEMORANDUM FOR: Deputy Director for Administration

SUBJECT : Preservation of Presidential Recordings and
Materials Act

1. On December 19, 1974, the Preservation of Presidential Recordings and Materials Act (P.L. 93-526) was signed into law. From the language of the Senate report it appears the Act is aimed principally at "materials containing additional evidence relating to the Watergate crimes." However, the language of Title I of the Act is open to broad interpretation, and its impact on CIA could be minimal or significant depending upon just how the Administrator of GSA interprets it.

2. Title I requires the Administrator of GSA to obtain, receive, and retain complete possession and control of all papers, documents, memoranda, and transcripts which constitute "the Presidential historical materials" of Richard M. Nixon covering the period January 20, 1969, through August 9, 1974. "Historical materials" is defined with reference to 44 U.S.C. 2101, and it is possible to interpret the term to include CIA materials in any way related to the President's official or personal life presently within or outside Agency control.

3. The initial attempt to define the scope of the Act will come when regulations are issued by the Administrator of GSA as provided for by Sections 5 and 6 of the Act. He has ninety days from the date of enactment to draft regulations to control public access to this material. These regulations, along with any subsequent changes thereto, are subject to congressional approval. The Act states that the Administrator of GSA is to take into account in formulating these regulations "the need to limit general access to material relating to national security," but it also charges him to consider "the need to provide the public with the full truth, at the earliest reasonable date, of the abuses of governmental

power publicly identified under the generic term 'Watergate.' " Therefore, the Agency will be affected insofar as our materials are ruled "the Presidential historical materials" of Richard M. Nixon. If material presently within our control is designated "Presidential historical materials," it would apparently have to be turned over to the Administrator of GSA. (Some would say that this could raise a conflict with the Director's responsibility to protect sources and methods.) Another factor is that Agency material currently outside our control could be obtained by the GSA. This includes material in the White House and, perhaps, some material in the possession of Congress. The release of all this material will be controlled according to regulations the Administrator of GSA develops.

4. All material received by GSA under this Act will eventually be indexed, and the public will have access to these indexes. This could lead to a spate of FOIA requests on CIA for declassification review.

5. Obviously, much hinges on the views of the Administrator of GSA and on the tenor of the regulations he is now formulating. First, will GSA limit itself to the "Watergate material" already outside our control, or will it come to us for "Presidential historical materials"? Second, are the regulations respecting whatever materials he ultimately receives adequate to protect CIA interests, bearing in mind that once formulated these regulations can only be changed with the approval of Congress. I suggest that a proper Agency official contact the appropriate party within GSA in the near future to:

(a) inquire as to his interpretation of the law in general;

(b) determine how he intends to accommodate Agency interests in his regulations; and

(c) suggest that any indexes compiled reference only those CIA documents that were publicly released by congressional committees, the White House, or the courts, the remaining Agency documents involving collateral issues not directly related to the Watergate inquiry.

SIGNED

George L. Cary
Legislative Counsel

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